



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-03

Legistar #: 20111200

Board of Zoning Appeals Hearing: Monday, January 30, 2012 – 6:00 p.m.

**Applicant:** Mary J. Karwoski, RLA  
Doran and Karwoski, Inc.  
160 Clairmont Avenue  
Suite 200  
Decatur, GA 30030

**Property Owner:** Ed Voyles Automotive Group  
789 Cobb Parkway, SE  
Marietta, GA 30060

**Address:** 789 Cobb Parkway, S.E.

**Land Lot:** 05730      **District:** 17      **Parcel:** 0040

**Council Ward:** 7      **Existing Zoning:** CRC (Community Retail Commercial)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to reduce required tree density from 172.25 units to 9 units. [Section 712.08 (D)(4)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**789 Cobb Parkway North**



**Rear (eastern) portion of cleared area**



**Mid-portion of disturbed area**



**Front (western) portion of cleared area**





**Trees prior to removal (2009 aerial photography)**

**Recommended Action:**

**Partial Approval.** Mary J. Karwoski, petitioner for Ed Voyles Automotive Group, is requesting a tree density variance for property at 789 Cobb Parkway South, which is the location of the Ed Voyles Chrysler Jeep car dealership. Approximately 6.89 acres in size, this property is zoned CRC (Community Retail Commercial). The properties immediately to the north, south, and across Cobb Parkway South to the west are also zoned CRC. The parcels to the east are zoned LI (Light Industrial).

The applicant is requesting a variance to reduce the required tree density for the site from 172.25 units to 9 units. Tree density is calculated on a units-per-acre basis. Parcels over five acres are required to maintain 25 units per acre. Because this site was likely developed prior to the passage of the Tree Ordinance, it would be considered legally nonconforming as long as the existing tree units on the site were maintained. This requirement does not prevent property owners from removing trees but it does require an equal number of units be replaced if any units are removed.

Until a few months ago, the site contained a large stand of pine trees along its northern property line. Nearly all the trees for the site were located within this area. However, at some point in the past few months, all these trees were removed. Because the property owner has no way of determining the number and size of the trees removed and thus determining the number of units at which the property was grandfathered, the full number of units for the site (172.25) would be required to come into compliance.



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Requests to reduce tree density have been heard before the Board of Zoning Appeals in the past. A variance requested in August 2001 by Walker School (700 Cobb Parkway North) was granted that allowed the school to omit nine acres of athletic fields from tree density calculations, effectively reducing the required tree density by 225 units (V2001-22). In March 2006, BZA approved a variance for Wellstar Health System that reduced the units per acre from 25 to 20 (V2006-04), resulting in a reduction of 227.95 units on the 45.59 acre campus. A variance (V2011-25) to reduce the required tree density from 197.25 to 70 units was approved for the Wal-Mart Neighborhood Market at 1137 Powder Springs Street in July 2011.

A substantial portion of the property is paved, leaving few areas eligible for planting. The City's Tree Ordinance provides an alternative in the form of payment into the City's Tree Replacement Fund, set up in 2004, for sites physically unable to plant the necessary tree units on the site. The Tree Fund is used to purchase, plant, and maintain trees on public property. This option was drafted specifically for hardship situations such as this.

Since the site has very few opportunities for plantings and only a small portion (0.56 acres) of the site was physically disturbed, **staff recommends partial approval of this request, and recommends calculating required units at 25 units per acre for the disturbed area only. Any tree density that could not be planted on site would have to be accounted for by paying into the Alternative Tree Fund.**